

A Report to the Legislature  
**Water Right Activities**

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*Dec. 1, 2006*



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
Doug Sutherland - Commissioner of Public Lands

This report was prepared by the  
Washington State Department of Natural Resources

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**Doug Sutherland**  
Commissioner of Public Lands

December 1, 2006

Dear Legislator:

The 2006 supplemental capital budget (ESSB 6384) requires the Department of Natural Resources (DNR) to prepare an inventory of acquisitions, sales, transfers, or exchanges of water rights within the past ten years. The inventory is to be submitted to the appropriate committees of the legislature by December 1, 2006. The report also requires an estimate of the cost of a study to inventory all water rights that are connected to existing state lands.

In our efforts to improve the value and productivity of the trust land base we manage, in the past ten years, DNR has engaged in limited activity with acquisitions, sales or exchanges of water rights. Our primary effort has been to preserve perfected water rights, by transferring "saved" water to other trust land locations. The last water right DNR obtained through the Department of Ecology was in 1995.

The attached report summarizes DNR's water rights activities and includes an estimated cost to inventory all DNR water rights. Please do not hesitate to call me if you have questions or concerns about the report.

Sincerely,

A handwritten signature in blue ink that reads "Doug Sutherland". The signature is written in a cursive style and is positioned over a light blue rectangular background.

Doug Sutherland  
Commissioner of Public Lands

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## *Preface*

In the 2006 supplemental capital budget, the Washington Legislature directed the Department of Natural Resources (DNR) to prepare an inventory of acquisitions, sales, transfers, or exchanges of water rights within the past ten years. The inventory is to be submitted to the appropriate committees of the legislature by December 1, 2006. The report also is to include an estimate of the cost of a study to inventory all water rights that are connected to existing state lands.<sup>1</sup>

## **Water Rights and Trust Asset Management**

DNR has added water to state trust lands to increase their value and utility. These irrigated lands grow a multitude of crops that yield a substantial return per acre. Revenue generated on trust lands supports schools and many other beneficiaries. DNR, acting under authority given at statehood in the Constitution and subsequent laws passed by the legislature, pursues increasing the value of state trust lands as part of our fiduciary responsibility. This is nowhere more evident than in our historical efforts to obtain and develop water rights for trust lands that have irrigation potential. As a result, DNR now manages 43,000 acres of irrigated trust land.

RCW 43.30.215 establishes that DNR is to “achieve the maximum effective development and use” of lands and resources under its jurisdiction. Further, RCW 79.13.170 authorizes DNR to “purchase or acquire a water right appurtenant to and in order to irrigate the land...” Through planning, DNR has acquired and maintained water rights for DNR-managed state trust lands that are a direct benefit to the beneficiaries of these trust lands.

DNR works through the Department of Ecology to acquire and transfer water rights. DNR complies with the Water Code of 1917 (Title 90 RCW), which specifies that the right of an individual to use water must conform to the doctrine of appropriation (first in time shall be first in right) and to the riparian water right doctrine. Once acquired, the right becomes appurtenant to (runs with) the land and is retained only through continuous use.

When DNR and its lessees change crops or irrigation systems that result in the need for less water to irrigate an originally certificated parcel, any excess water must be transferred to another site or it may be lost to DNR and the trusts due to lack of continuous use. As a steward of land and resources, DNR works diligently to fully utilize certificated water resources. As a result, DNR, as occasions arise, acts to preserve water rights associated with state trust lands by transferring them to other parcels.

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<sup>1</sup> 2006 Supplemental Budget, ESSB 6384, Sec. 184 (3)

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DNR is authorized to sell, exchange and buy land to improve the value and productivity of the trust land base (RCW 79.66.0 10). Since water rights are attached to specific parcels of land, when land transactions occur the water rights are typically included in the transaction.

## Water Right Activity on State Trust Lands

In the past ten years DNR has had very limited activity with acquisitions, sales or exchanges of water rights. The last water right the DNR acquired through the Department of Ecology (DOE) was in 1995.

DNR has purchased one water certificate outright (Engbretson) and acquired five more through land purchases (Benton Orchard, Paterson Orchard and the Page Road properties). One certificate tentatively has been sold (Hatton Permit). DNR is awaiting DOE approval to finalize this transaction. The transactions are summarized in Table 1.

**Table 1. DNR acquisitions and disposition of water rights, 1996-2006**

County	Transaction	Water Right Number	Property Description
Benton	Purchase	G4-25953(C) P	Engbretson
Benton	Land Purchase	G4-29228	Benton Orchard Property
Benton	Land Purchase	S4-28284C, S4-26501C, S4-28427C	Paterson Orchard Property
Franklin	Land Purchase	S3-22228C	Page Road Property
Adams	Auction	G3-23389C	Hatton Permit

DNR also has transferred or changed the “place of use” of water to continue to use all of the allocated water right. Water that has been saved through improvements in cropping or irrigation systems (e.g., converting orchards to vineyards) is utilized on other trust parcels. Table 2 is a summary of transfers for “place of water use”. All transfers/changes of water rights have been approved by the Department of Ecology.

**Table 2. DNR transfer based on “Place of Water Use”, 1996-2006**

County	Water Right Number	Original Acres Permitted	Current Acres Permitted
Benton	G4-23968C	380	820
Benton	G4-23969C	155	317
Benton	G4-23977C	260	457
Benton	G4-30827P	160	660
Grant	G3-01592C	286	286
Walla Walla	G3-01 174C	80	80

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## **Estimated Cost of Inventory Study**

On DNR managed state trust lands there are approximately 3,700 water rights and claims. Assuming that 265 water rights and/or water claims records could be reviewed and entered into a data base per month, a minimum of fourteen (14) staff months would be required to inventory 3,700 records. At an average rate of \$5,500 per staff month the estimated cost is \$77,000 in staff time. This inventory could be completed over the course of one biennium.

## **Conclusion**

DNR works with its lessees and Department of Ecology to maximize the beneficial use of the state trust land water rights.

Through judicious management of the water, technological advances in water application and conversion to more water-efficient crops, DNR continues to preserve trust assets while increasing revenue for the various trust beneficiaries.